

(4) Each party shall bear its own expenses associated with the taking of any deposition unless otherwise ordered by the presiding officer.

(h) *Sanctions.* If a party fails to appear for a deposition, after being served with a proper notice, or fails to serve answers or objections to interrogatories, requests for admissions, or requests for the production or inspection of documents, after proper service, the party seeking discovery may request that the presiding officer impose appropriate orders. Failure of a party to comply with an order pursuant to this rule may result in the presiding officer's ruling that the disobedient party may not support or oppose designated charges or defenses or may not introduce designated matters in evidence. The presiding officer may also infer from the disobedient party's failure to comply with the order that the facts to which the order related would, if produced or admitted, be adverse to such party's interests. In the sole discretion of the presiding officer, failure of a party to comply with an order pursuant to this rule may result in the presiding officer's issuance of an order of default under § 952.11(c).

§ 952.22 Transcript.

(a) Hearings shall be reported and transcribed by a court reporter. Argument upon any matter may be excluded from the transcript by order of the presiding officer. A copy of the transcript shall be a part of the record and the sole official transcript of the proceeding. Copies of the transcript shall be supplied to the parties to the proceeding by the reporter at rates not to exceed the maximum rates fixed by contract between the Postal Service and the reporter. Copies of parts of the official record including exhibits admitted into evidence, other than the transcript, may be obtained by Respondent from the Recorder upon the payment of reasonable copying charges. Items that cannot reasonably be photocopied may be photographed and furnished in that form.

(b) Changes in the official transcript may be ordered by the presiding officer only to correct errors affecting substance and then only in the manner herein provided. Within 10 days after

the receipt by any party of a copy of the official transcript, or any part thereof, he or she may file a motion requesting correction of the transcript. Opposing counsel shall, within such time as may be specified by the presiding officer, notify the presiding officer in writing of his or her concurrence or disagreement with the requested corrections. Failure to interpose timely objection to a proposed correction shall be considered to be concurrence. Thereafter, the presiding officer shall by order specify the corrections to be made in the transcript. The presiding officer on his or her own initiative may order corrections to be made in the transcript with prompt notice to the parties of the proceeding. Any changes ordered by the presiding officer other than by agreement of the parties shall be subject to objection and exception.

§ 952.23 Proposed findings and conclusions.

(a) Each party to a proceeding, except one who fails to answer the complaint or, having answered, either fails to appear at the hearing or indicates in the answer that he or she does not desire to appear, may, unless at the discretion of the presiding officer such is not appropriate, submit proposed findings of fact, conclusions of law, orders and supporting reasons either in oral or written form in the discretion of the presiding officer. The presiding officer may also require parties to any proceeding to submit proposed findings of fact, conclusions of law, orders, and supporting reasons. Unless given orally, the date set for filing of proposed findings of fact, conclusions of law, orders and supporting reasons shall be within 30 days after the delivery of the official transcript to the Recorder who shall notify both parties of the date of its receipt. The filing date for proposed findings of fact, conclusions of law, orders and supporting reasons shall be the same for both parties. If not submitted by such date, or unless extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Except when presented orally before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall

United States Postal Service

§ 952.25

state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

(c) Except when presented orally before the close of the hearing, proposed orders shall state the statutory basis of the order and, with respect to orders proposed to be issued pursuant to 39 U.S.C. 3005(a)(3), shall be set forth in serially numbered paragraphs stating with particularity the representations Respondent and its representative shall cease and desist from using for the purpose of obtaining money or property through the mail.

§ 952.24 Decisions.

(a) *Initial decision by Administrative Law Judge.* A written initial decision shall be rendered by an Administrative Law Judge as soon as practical after completion of the hearing, or after close of the record in matters heard upon the written record in lieu of an oral hearing under § 952.17(b)(10). The initial decision shall include findings and conclusions with the reasons therefor upon all the material issues of fact or law presented on the record, and the appropriate orders or denial thereof. The initial decision shall become the final agency decision unless an appeal is taken in accordance with § 952.25.

(b) *Tentative or final decision by the Judicial Officer.* When the Judicial Officer presides at the hearing he or she shall issue a final or a tentative decision. Such decision shall include findings and conclusions with the reasons therefor upon all the material issues of fact or law presented on the record, and the appropriate orders or denial thereof. The tentative decision shall become the final agency decision unless exceptions are filed in accordance with § 952.25.

(c) *Oral decisions.* The presiding officer may render an oral decision (an initial decision by an Administrative Law Judge, or a tentative or final decision by the Judicial Officer) at the close of the hearing when the nature of the case and the public interest warrant. A party which desires an oral decision shall notify the presiding officer and the opposing party at least 5 days prior

to the date set for the hearing. Either party may submit proposed findings, conclusions, and proposed orders either orally or in writing at the conclusion of the hearing.

§ 952.25 Exceptions to initial decision or tentative decision.

(a) A party in a proceeding presided over by an Administrative Law Judge may appeal to the Judicial Officer by filing exceptions in a brief on appeal within 15 days from the receipt of the Administrative Law Judge's initial decision.

(b) A party in a proceeding presided over by the Judicial Officer may file exceptions within 15 days from the receipt of the Judicial Officer's tentative decision.

(c) If an initial or tentative decision is rendered orally by the presiding officer at the close of the hearing, he or she may then orally provide notice to the parties participating in the hearing of the time limit within which an appeal must be filed.

(d) The date for filing the reply to an appeal brief or to a brief in support of exceptions to a tentative decision by the Judicial Officer is 10 days after the receipt thereof. No additional briefs shall be received unless requested by the Judicial Officer.

(e) Briefs upon appeal or in support of exceptions to a tentative decision by the Judicial Officer and replies thereto shall be filed in duplicate with the Recorder and contain the following matter:

(1) A subject index of the matters presented, with page references; a table of cases alphabetically arranged; a list of statutes and texts cited with page references;

(2) A concise abstract or statement of the case in briefs on appeal or in support of exceptions;

(3) Numbered exceptions to specific findings and conclusions of fact, conclusions of law, or recommended orders of the presiding officer in briefs on appeal or in support of exceptions; and

(4) A concise argument clearly setting forth points of fact and of law relied upon in support of or in opposition to each exception taken, together with specific references to the parts of the